

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 20358 of 2002

Between:

P.Ravi Prakash, s/o. Prakash Rao, Conductor,
APSRTC Bus depot Avanigadda, Krishna dist.

..... PETITIONER

AND

1)The Depot Manager, APSRTC, Avanigadda depot,
Krishna district

2)The Divisional Manager, Machilipatnam division,
APSRTC, Machilipatnam, Krishna district

3)The Government of Andhra Pradesh, rep. by
its Secretary, Labour, Employment Training and Factories
Department, Secretariat buildings, Hyderabad ... Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus declaring the action of the third respondent-Government in rejecting the reference of the industrial dispute raised on behalf of the petitioner for adjudication to the Labour Court is wholly illegal, arbitrary, non-application of mind and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to refer the matter to the Labour Court for adjudication.

Counsel for the Petitioner:MR. K.Ravi

Counsel for the Respondents 1 & 2: Mr. R.Manmadha Reddy.

Counsel for the Respondent No.3: G.P. for Labour.

The Court made the following :

ORDER:

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Heard Sri K.Ravi, learned counsel appearing for the petitioner and Sri R.Manmadha Reddy, learned standing counsel appearing on behalf of the respondents 1 and 2 and the learned Government Pleader for Labour appearing on behalf of the third respondent.

The petitioner herein, who is a conductor working with the respondents 1 and 2, filed this Writ Petition, *inter alia*, seeking a Writ of Mandamus to declare action of the third respondent in rejecting his request seeking for reference of the dispute to the Labour Court, as bad and illegal.

The case of the petitioner is that he was initially appointed on 05.05.1989 and his services were regularised with effect from 01.08.1997 as per the order dated 23.09.1997. As against the said order, the petitioner sought to raise an industrial dispute in the year 1998 before the Assistant Commissioner of Labour and Conciliation Officer, Vijayawada, who issued notices to respondents therein. As there was no reply from the respondents, an application was filed by him through Union on 15.01.2001 to admit the case for conciliation. But, the efforts of the Conciliation Officer failed and so, he submitted a report to the Government in October, 2001. Thereafter, the first respondent issued orders on 02.04.2002, rejecting the reference for

adjudication on the ground of delay. Hence, the Writ Petition.

Having heard the learned counsel on either side and on perusal of the material, the only dispute is in regard to the date of regularisation from which the petitioner is entitled to. There is no dispute to the fact that the petitioner sought reference to the Labour Court under the provisions of the Industrial Disputes Act. In fact, the said exercise was taken up in the year 1998 by the Union on behalf of the petitioner and an application was filed by the Union on 15.01.2001. On the report of the Conciliation officer, the Government considered the matter and rejected his request for reference on the ground of delay. As held in *Gurmail Singh v. Principal, Government College of Education & others*, the ground of delay is not available for rejection of reference nor the Government can go into the merits of the case. Following the same, the orders of the first respondent are not sustainable.

The Writ Petition is, accordingly, allowed directing the third respondent to refer the matter to the concerned Labour Court for adjudication. The entire exercise shall be completed within a period of two months from the date of receipt of copy of this Order. No costs.

(B.Prakash Rao, J.)

25.03.2005

DRK/Chvn.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on Friday the twenty fifth day of March two thousand and five.

... Registrar

Copy to:

1)The Depot Manager, APSRTC, Avanigadda depot, Krishna district

2)The Divisional Manager, Machilipatnam division,
APSRTC, Machilipatnam, Krishna district

3)The Secretary, Government of Andhra Pradesh, Labour, Employment Training
and Factories Department, Secretariat buildings, Hyderabad

4) Two CCs to the G.P. for Labour, High Court of A.P., High Court buildings,
Hyderabad (o.u.t.).

5) Two CD copies.